

25 Miles of
CEMENT SIDEWALK
Now Being Built in Pensacola

OFFICIAL from WASHINGTON—Fair Wednesday and Thursday, moderate temperature, light variable winds, mostly east.

The Pensacola Journal.

THE JOURNAL'S
WANT AD WAY
Is The Way To Prosperity

VOL. XII.—NO. 113.

PENSACOLA, FLORIDA, WEDNESDAY MORNING, MAY 12, 1909.

PRICE, 5 CENTS.

JURY FINDS CAPT. P. C. HAINS GUILTY OF MANSLAUGHTER

Army Officer Faces Term of
From One to Twenty
Years.

TURNED PALE WHEN
VERDICT WAS READ

JURY CAME TO AN AGREEMENT
LATE IN THE DAY—A MOTION
FOR A NEW TRIAL TO BE MADE
BY THE DEFENSE, AND ONE OF
THE REASONS WILL BE THAT
THE JURY WAS NOT PROPERLY
GUARDED DURING THE TRIAL.

By Associated Press.
Flushing, May 11.—Captain Peter C. Hains, Jr., U. S. A., tonight faces a prison term of from one to twenty years. Despite all the testimony submitted by the defense as tending to show insanity, he was convicted late today of manslaughter in the first degree for the killing of William E. Anis at the Bayside Yacht club last August.

Quickly following the young army officer's conviction, his counsel announced they would produce affidavits to show the jury had not been properly guarded during the trial and upon this allegation will urge that a new trial be granted. These affidavits will be submitted on Monday, the time set for passing sentence and for any motions the defendant's counsel may desire to make.

There will, of course, be the usual motions to set aside the verdict, as against the weight of evidence and contrary to law, but the unguarded jury feature is the only departure from the stereotyped procedure looking to a new trial.

HAINS TURNED PALE.
Captain Hains stood up and faced the jury, squaring his shoulders while Foreman Sundling recited the verdict. As he heard the decision of the jurors, Hains' face turned white as chalk. He stood for a moment motionless, staring at the jury. Then one of his lawyers touched him, and he quietly sat down.

A few moments later, apparently little affected by the verdict, he walked from the court room with a steady stride and was taken back to the Queen's county jail.

FOURTEEN MEN FOUND GUILTY NIGHT RIDING

Cases Come to Conclusion at
Waverly, Tenn.—Men Are
Sentenced to Ten Days
and Fines of \$500 Each.

By Associated Press.
Waverly, Tenn., May 11.—A verdict of guilty was returned late today in the case of the fourteen men charged with being members of the night riders' organization and whipping Esquire J. M. Reece on October 15, last.

The Wrights Home After Many Successes

By Associated Press.
New York, May 11.—Wilbur and Orville Wright, the aeronauts, were passengers on board the steamer Kron Prinzessin Cecilie which arrived here today. Considerable concern as to the accident which befell Lieutenant Calderara, of the Italian navy, in falling from the Wright aeroplane at Rome on Thursday last, was manifested by the Wrights on

Ninth Biennial Session of the B. R. T. Convenes

By Associated Press.
Columbus, O., May 11.—The ninth biennial convention of the National Brotherhood of Railway Trainmen opened at Memorial Hall at 9 o'clock today. Grand Master W. C. Lee, of Cleveland, called the 800 delegates to order. The convention got right down to business and announcement of various committees was made and adjournment taken to this afternoon. There has been a gain of over 2,000 members during the past two years

No Reason Why Cotton Should be Marketed Early

Special to The Journal.
Mobile, Ala., May 11.—That there is no reason why the season for marketing cotton cannot be extended over a period of nine to ten months instead of being congested into three or four months was the contention of W. P. G. Harding, of Birmingham, Ala., at the 17th annual convention of the Alabama State Bankers convention which began here today. The banks, he urged, can finance the holding of the

NAVAL STORES CASES TO GO TO HIGHER COURT

Penal Provisions in Anti-Sherman Laws Will Be
Attacked by the American
Naval Stores Company.

By Associated Press.
Savannah, Ga., May 11.—The so-called turpentine trust case, in which a verdict of guilty was rendered last night against five officers of the American Naval Stores Company in the United States court, will, without doubt, find its way to the supreme court of the United States.

It is stated that in this case, for the first time, were the penal provisions of the Sherman anti-trust law attacked, and this question will probably be passed upon by the supreme court in the naval stores case.

Judge Sheppard did not pass sentence upon the five men found guilty this morning, and it probably will be Saturday before sentence is pronounced.

BISHOP CHAS. B. GALLOWAY IS SINKING FAST

Noted Divine of the Methodist Episcopal Church is
Dying at His Home in
Jackson, Miss.

By Associated Press.
Jackson, Miss., May 11.—Bishop Charles B. Galloway, of the Methodist Episcopal church, South, is critically ill of pneumonia at his home in this city. He has been in feeble health for several weeks.

Physicians attending the bishop announced tonight that the patient is sinking gradually, and it is not probable he can survive the night.

reaching the quarantine station. The brothers said they would go as soon as possible to their home in Dayton, O., where the aeroplanes intended for use of the government service are completed. From Dayton, they say, they intend to proceed to Washington to test the aeroplanes under the direction of government representatives. The Wright brothers united in saying they had no intention of making secret experiments.

and the membership, now numbers 101,000.
The most important questions to come up before the convention which will last three weeks, are the proposed increase of the insurance of the members and the minor changes in the constitution. An effort will be made also to change the titles of the officers. Much interest is manifested in the report on the constitution and grand lodge officers who have been in session in Cleveland for the past two weeks, but the reports are not.

BEARD'S STATUTORY PROHIBITION BILL IS CHASED OFF CALENDAR

Senate Tired of Moving It
Up Finally Indefinitely
Postpones.

I. I. COMMISSION'S
REPORT IS ADOPTED

HOUSE RECEIVES A COMMUNICATION IN THIS CONNECTION FROM W. S. JENNINGS CHARGING THAT MACWILLIAMS HAD MISQUOTED IN HIS MINORITY REPORT, AND HAD DECEIVED SOME MEMBERS — BEARD'S PILOTAGE BILL POSTPONED.

By Fred M. Allen.
Tallahassee, May 11.—All further time-killing over the I. I. investigating commission report was probably put to an end today when the house adopted a resolution adopting the report of the joint commission appointed in 1907. The house also during the morning session received a communication from W. S. Jennings stating that MacWilliams in his minority report on the committee to investigate the joint report had misquoted and also submitting that MacWilliams had deceived some of the members regarding him. The house tabled the communication without reading it in full and refused to have it placed on the journal.

BEARD'S PROHIBITION BILL.
The senate finally chased the Beard statutory prohibition measure off the calendar. It has been set as a special order nearly since the first of the session. But when the date arrives Senator Beard has been arising and shoving it on for a day a little while again. This morning he moved to move it ahead until Thursday. The motion was lost, some of the members stating that they were tired of shoving it along without hearing it. A motion to indefinitely postpone the measure was then carried 17 to 6.

"The prohibitionists of this house voted for a constitutional amendment which they know can by no possibility pass but they refuse to support a real prohibition measure," remarked the senator from Escambia when action was taken. He voted against the McMullen prohibition resolution when it was before the senate.
Senator Sloan introduced a bill which provides that where a convict has a family dependent upon him for support the state shall pay to the family one-half his earnings as a convict. Another bill by Mr. Sloan changes the imprisonment for conviction upon the

(Continued on Page Two.)
WISHES OF NOVELIST.
Sorrento, May 11.—The will of the late Marion Crawford, the American novelist who died here April 9, expresses the desire that his yacht and the Villa Cant Angello be sold and that the testator's body be buried in the Sant Angello cemetery.

FOUNDER OF MOTHERS' DAY; EXECUTIVES WHO PROCLAIM ITS OBSERVANCE



The nation on May 9, the second Sunday of the month, united in paying tribute to motherhood. In churches of every creed and in every home expressions were given. Everywhere the white carnation, appropriately selected as the symbol of the day and its meaning, was in evidence. To Miss Anna Jarvis, a Philadelphia woman, belongs the honor of originating the idea of observing mothers' day, and she has received thousands of tender letters from mothers all over the land. Governor Vessey of South Dakota has made it a legal holiday. Governor Glasscock of West Virginia, in his proclamation designating the white carnation as the emblem of the day said "because its whiteness stands for purity, its form and beauty its fragrance for love and its lasting qualities for faithfulness—all a true mother's virtues.

CITY CAN COMPEL THE L. & N. TO PAVE TARRAGONA STREET

"The Lost John Orth" Found by a Newspaper

Special to The Journal.
Chicago, May 11.—The Journal today devotes its entire front page to the elaboration of an unequivocal statement that it has discovered "The Lost John Orth" otherwise archduke Johann Salvator, of Austria, prince of the house of Hapsburg, who disappeared nineteen years ago after marrying Ludmilla Stupel, an opera singer. Briefly sketched, the Journal story says:
"John Orth was discovered in Painesville, Ohio, working as a ma-

chinist at \$15 a week. Previously he had followed this occupation in Grand Rapids, Mich., and Cleveland, Ohio. His reason for making his identity known at this time, the Journal states, was due to his advancing age and his desire that he might be buried in Austria.
Johann Salvator, as the alleged archduke has always been known since he left the court at Vienna, was married in London and he and his wife afterward sailed to South America in the "Santa Margarita," a schooner which he had chartered.

WAR VETERANS LEAVE OHIO TO RETURN FLAGS

Party of Nine Depart From
Cincinnati for Selma to
Present Flags Captured
During Civil War.

Special to The Journal.
Cincinnati, O., May 11.—Nine veterans of the civil war, two of them official representatives of the state of Ohio, left last night for Selma, Ala., to return with proper ceremonies the Confederate flags captured by the fourth Ohio cavalry on the battlefield near that town. Those in the party were Chairman John A. Pitts, of this city, and Major W. W. Shoemaker, of Dayton, O., appointed by the last legislature to arrange for the return of the colors, and the following volunteer commissioners: Captain Thomas H. Osborn, M. H. Richardson, W. H. Hendick, J. I. Henton and H. L. Brampe, of this city; Joseph A. Goddard, Muncie, Ind., and T. S. Lindsay, of Dayton, O.

The flags belonged to the life scouts, which was a part of General Forrest's command.
WIRELESS TELEGRAPHY IN USE.
Marseilles, May 11.—Military and civil authorities, with the aid of the chamber of commerce have completed arrangements for wireless telegraphy and automobile services to insure the continuation of the transmission of telegrams and letters in case of a strike.

SECOND SLASH MADE IN PRICE OF CRUDE OIL

Cut of Five Cents Per Barrel
on All Grades is Posted—
Decline in Trade Said to
Be Cause of Reduction.

By Associated Press.
Lima, Ohio, May 11.—Standard Oil made its second slash in crude oil prices with the opening of the market this morning, another cut of 5c on the barrel for all grades being posted. While stocks of the eastern fields show heavy losses, millions of barrels are in storage in Oklahoma and this, with the decline during the summer months of the domestic trade, is attributed as the cause of the cut.

DEPUTIES TAKE NO ACTION, BIG STRIKE NOW ON

Railway Mail Clerks Quit in
a Body When Action of
Chamber of Deputies Be-
came Known—Postal Em-
ployees to Strike.

By Associated Press.
Paris, May 11.—The chamber of deputies after a stormy session of four hours today adjourned the debate on interpellations on the postal situation until May 13.
The response of the postal employees was quick and decisive. Within half an hour the federal committee had issued an order for a general strike, and the railway mail clerks walked out in a body. An hour later a meeting of six thousand postal employees at the Hippodrome took up the race of battle and unanimously voted to strike. There was no great enthusiasm shown but a determination and resolution to force the hand of the government is apparent.

Taft to Play Notable Game of His Golf Career

By Associated Press.
Washington, May 11.—President Taft tomorrow will play the most notable game of his golf career up to this time, when, paired with Walter J. Travis, the former national champion and an authority of international repute, he will engage in a foursome against General Clarence Edwards, chief of the insular bureau of the war department and F. Oden Horstmann, one of the cracks of the Chevy Chase Club in this city. Travis is here to

City Attorney Jones Renders
an Opinion to This
Effect.

CITY COULD NOT
GRANT IMMUNITY

DID NOT HAVE AUTHORITY TO
MAKE GRANTS CLAIMED BY THE
COMPANY UNDER THE ORDINANCE PASSED IN 1897—IF THE
CITY AT ANY TIME DECIDES TO
PAVE TARRAGONA STREET IT
IS ITS DUTY TO REQUIRE THE
LOUISVILLE & NASHVILLE TO
PAVE ITS PORTION.

In the opinion of City Attorney John B. Jones, if the same construction be given the ordinance granting the Louisville and Nashville Railroad Company certain rights and privileges on Tarragona street be interpreted by the city council in the same way as the company interprets it, such interpretation would be illegal, this being Mr. Jones' opinion furnished Mayor Goodman concerning the city's right to compel the railroad company to pave its portion in the event the city decides to pave Tarragona street.
Mayor Goodman began an investigation of the matter two or three months since and when the report was made to the council that the L. & N. could not be made to pave he took the matter up with the city attorney.

OPINION OF MR. JONES.
Attorney Jones' opinion in full, a copy of which was mailed to Mayor Goodman last night, is as follows:
Pensacola, May 11th, 1909.

Hon. C. C. Goodman, Mayor.
Dear Sir: Replying to your inquiry as to whether, in event the city decides to pave Tarragona street, the Louisville & Nashville Railroad Company could be compelled to pay the cost of paving between its rails, etc.
The railroad company contends, as I understand, that the ordinance granting it the franchise of constructing, owning and operating an additional track on Tarragona street, adopted January, 1897, and found at page 309 of the code, exempts it from paying the cost of such paving.
The principle of law is firmly established that all grants such as the one made by said ordinance must be strictly construed most strongly against the grantee and in favor of the public.

Applying this rule, it is clear to my mind that said ordinance was not intended to have, and has not, the effect contended for by the company.
But, if such construction be given it as the company does, it would be ultra vires, or illegal, because the city could not have granted it such immunity without legislative authority, and we find that at the time of the adoption of the ordinance the legislature had not only failed to vest such power in the city but section 66 of the charter, as it then existed, made it mandatory on the city to require the company to pave between its rails and for one foot on each side thereof whenever the city should pave the street.
Clearly the city could not release the company of an obligation imposed by the legislature.

For the foregoing reasons, and others not now necessary to state, I advise you that in the event the city should decide to pave Tarragona street it would not only have the right, but it would be its duty, to require the Louisville & Nashville Railroad to imbed in an expert.

(Continued on Page Two.)

1,500 Students of Tokio Commercial School Quit

By Associated Press.
Tokio, May 11.—Fifteen hundred students of the commercial high school held the last mass meeting today at which resolutions were passed declaring that they would no longer attend the school. After the mass meeting the students formed a line in front of the building, sang the school song, bid farewell, removed their school insignia, and then dispersed.
The trouble in the commercial high

school commenced some time ago when the students petitioned the government to raise it to the rank of a university. The request was not granted, but the minister of education sought to effect a compromise by establishing a new commercial course in the college of law at the university of Tokio. The trouble culminated last week in a fire which nearly destroyed the building. It was suspected that the fire was the work of the enraged students.